

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SEVERINO OSUNA,

Defendant.

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CRIMINAL CASE NO. 2:12-CR-00033-1

ORDER

Before the Court is Severino Osuna's motion for the provision of a transcript of his sentencing hearing at the government's expense. (D.E. 50.) Osuna claims he needs the transcript to prepare a motion to vacate, set aside, or correct judgment pursuant to 28 U.S.C. § 2255.

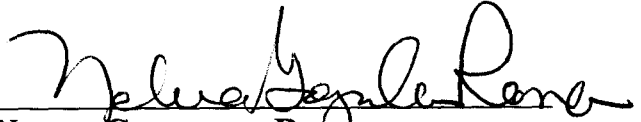
Osuna qualified for appointed counsel in the criminal proceedings before this Court, and he claims that he is indigent. (D.E. 4, 50.) An indigent defendant has a statutory right to free court documents in certain circumstances. *See* 28 U.S.C. § 753(f); *United States v. MacCollum*, 426 U.S. 317 (1976). The defendant must establish that the documents are needed to decide an issue in a pending suit and that the suit is not frivolous. 28 U.S.C. § 753(f).

Osuna was sentenced on May 29, 2012 after entering a plea of guilty. (D.E. 43.) Osuna did not appeal, and, except for the present motion, there are no matters pending before the Court. Osuna's motion fails to demonstrate that a transcript is necessary to

resolve an issue in the present suit, and therefore, his request does not meet the requirements for the provision of a transcript at the government's expense. *See* 28 U.S.C. § 753(f); *see also United States v. Herrera*, 474 F.2d 1049, 1049–50 (5th Cir. 1973) (“This Court has consistently held that a federal prisoner is not entitled to obtain copies of court records at the government's expense to search for possible defects merely because he is indigent.”).

For the reasons set forth above, Osuna's motion for the provision of a transcript at the government's expense (D.E. 50) is DENIED. Osuna may purchase a copy of the sentencing transcript at his own expense. The Clerk of the Court is instructed to send Osuna a transcript request form.

ORDERED this 18th day of March 2013.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT COURT